CONFERENCE ON DISARMAMENT

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REPORT OF THE AD HOC COMMITTEE ON EFFECTIVE INTERNATIONAL ARRANGEMENTS TO ASSURE NON-NUCLEAR-WEAPON STATES AGAINST THE USE OR THREAT OF USE OF NUCLEAR WEAPONS

I. Introduction

1. At its 578th plenary meeting on 24 January 1991 the Conference on Disarmament decided to re-establish for the duration of its 1991 session, an Ad Hoc Committee to continue to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons. It further decided that the Ad Hoc Committee would report to the Conference on the progress of its work before the conclusion of 1991 (CD/1050).

II. Organization of work

2. At its 582nd plenary meeting on 14 February 1991, the Conference on Disarmament appointed Ambassador Juraj Kralik of the Czech and Slovak Federal Republic as Chairman of the Ad Hoc Committee. Mr. V. Bogomolov, Political Affairs Officer, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 11 formal and 4 informal meetings between 12 March and 19 August 1991.

4. At their request, the Conference on Disarmament decided to invite the representatives of the following States not members of the Conference to participate in the meetings of the Ad Hoc Committee during the 1991 session: Angola, Austria, Bangladesh, Cameroun, Chile, Costa Rica, Democratic People's Republic of Korea, Finland, Greece, Iraq, Ireland, Jordan, Malaysia, New Zealand, Norway, Oman, Portugal, Qatar, Republic of Korea, Spain, Syria, Switzerland, Tunisia, United Arab Emirates, Uruguay, Viet Nam and Zimbabwe.

5. The following working paper was submitted to the Ad Hoc Committee at this annual session: CD/SA/WP.13 dated 6 August 1991 entitled "Paper presented by Egypt on security assurances for non-nuclear-weapon States against the use or threat of use of nuclear weapons".

III. Substantive work

6. The Group of 21 stated that the issue of effective international arrangements to assure non-nuclear-weapon states against the use or threat of

use of nuclear weapons was one of cardinal importance since it was symbiotically linked to, and touched upon, the fundamental security of all states. It recalled General Assembly resolution 45/54 which had recommended that the Conference on Disarmament actively continue intensive negotiations with a view to reaching early agreement and concluding effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons, taking into account the widespread support for the conclusion of an international convention and giving consideration to any other proposals designed to secure the same objective. The Group reiterated that, every effort should be exerted to construct an edifice of multilateral disarmament agreements to replace worn out theories and decayed strategies. Such an edifice would remain incomplete if comprehensive legally binding assurances from the nuclear weapon states were not allocated to all non-nuclear weapon states since they had voluntarily renounced the nuclear option. The Group of 21 regretted the lack of agreement and progress in this field despite the cardinal importance attached to the work of this Committee.

7. The Group of 21 felt that there was agreement amongst the majority of the Member States of the United Nations to the idea of an international convention to reach agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. This has been borne out by what had been embodied in successive resolutions of the United Nations General Assembly. The Group expressed an opinion that these resolutions reaffirmed the urgent need to reach an agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; appealed to all States, especially the nuclear weapon States, to demonstrate the political will to reach an agreement on a common formula that could be included in an international instrument of a legally-binding character and recommended that the CD should actively continue negotiations on this subject, including the consideration of any other proposals designed to secure the objective before it.

8. The same Group was of the view that these resolutions should form the starting point of the Committee's negotiations and that the general consensus on the common formula approach should not be undermined and efforts should be made to resume the search for an agreeable solution from that point.

9. One delegation belonging to the Group of 21, whose views were shared by other delegations of the same Group, stated that the only credible guarantee against the use or threat of use of nuclear weapons lay in nuclear disarmament and the elimination of such weapons. To this end, it had proposed the

conclusion of an international agreement prohibiting the use or threat of use of nuclear weapons and instead of agreeing upon partial pledges of non use, this treaty had to be negotiated pending complete nuclear disarmament. It had, however, supported a legally-binding and multilaterally-negotiated international instrument for providing security assurances to non-nuclear weapon states, which should be clear, credible, universal and without any qualifications or discrimination. This, in turn, necessitates that such an instrument be based on a "common formula" approach. NSAs cannot be predicated upon, nor can they be used as a pretext for demanding discriminatory obligations or "reciprocal guarantees" from non-nuclear weapon states, thus further adversely affecting their already threatened security. The nuclear-weapon States had an obligation to assure and the non-nuclear weapon States had the right to be assured against the use or threat of use of nuclear weapons.

10. One member of the same Group underlined the responsibility of the UN in maintaining international peace and security which had guided the Security Council to adopt its resolution 255 in 1968 on questions relating to measures to safeguard non-nuclear-weapon states parties to the NPT, especially because the NPT did not contain a clause providing for security assurances to non-nuclear-weapon states. It felt that the resolution adopted more than 23 years ago needed an update by adopting a revised version that would contain credible assurances. It considered that a first step was necessary to initiate a process whereby nuclear-weapon states party to the NPT would conduct consultations collectively or individually with the nuclear weapon states not currently party to the Treaty on security assurances taking into account UN Security Council Resolution 255 of 1968 and to inform other states party to the Treaty of any progress or appropriate action taken by the Security Council as a result of these efforts. These views were contained, inter alia, in the paper presented by this delegation to the Ad Hoc Committee this year.

11. One delegation from the same Group indicated that the concept of negative security assurances should now be discussed in the light of the improved climate. It felt that to suggest that states which had relinquished the nuclear option in a legally-binding manner to the NPT be content with unilateral security assurances was possibly to undermine the sobriety of such states. It believed that insistence upon conditional assurances which placed parties and non-parties to the NPT on the same footage might be unrealistic and unattainable and possibly disruptive.

12. One delegation, a member of the Group of 21, expressed the view that credible security assurances to non-nuclear weapon States against the use or

threat of use of nuclear weapons were an essential element of an effective and equitable regime to prevent the proliferation of nuclear weapons. Such assurances should be without qualification, not subject to divergent interpretation and unlimited in scope, application and duration. The guarantees to be extended to the non-nuclear weapon States also should be based on a single "common formula" on which agreement exists, as was reflected in numerous resolutions on the subject adopted by the UN General Assembly over the years. At the same time the delegation was opposed to the "categorization" approach pursued by some countries, as this would complicate the search for a "common formula". The delegation reiterated that the obligation of the nuclear-weapon States not to use or threaten to use nuclear weapons against non-nuclear-weapon States should be categorical and unambiguous. Security assurances to non-nuclear-weapon States should be extended in an international instrument of a legally-binding character, which could take various forms. However, unilateral declarations of the nuclear-weapon States would not create the legal commitments that were essential for any credible arrangement to assure the non-nuclear-weapon States because unilateral declarations, no matter how solemnly made were, after all, statements of governmental policy and could be changed or withdrawn unilaterally. Finally, that delegation stated that negative security assurances were only a first step towards the complete prohibition of the use of nuclear weapons and as a part of the efforts to achieve nuclear disarmament.

13. One delegation belonging to the Group of 21 also expressed the view that the only prerequisite to receive security assurances was the non-possession of nuclear weapons, and there should be no other conditions attached to the extension of such guarantees by the nuclear-weapon States. It stated that it had never accepted the logic behind the policies of nuclear deterrence. An agreement concerning NSAs should be based on the relevant UN resolutions.

14. Some delegations of the Group of 21 expressed their regret that the work of the Committee had yet to benefit from the new international climate. They said that there had been little substantive work and urged the nuclear-weapon States to submit individually or collectively specific proposals in order that negotiations could begin. For those delegations the lack of progress was due to the absence of political will of some delegations.

15. The Western nuclear-weapon States said the kind of political will needed was recognition by some members of the Group of 21 that the specific proposals offered by members of the Western Group during the 1991 session were serious and should be dealt with as such. Proposals and political will were required by all in order to further the work of the Committee.

16. Some delegations belonging to the Group of Eastern European and other states, including the delegation of a State possessing nuclear weapons, reiterated their position that nuclear disarmament and the complete elimination of nuclear weapons represented the most effective and promising guarantee against the use or threat of use of nuclear weapons. Until then States not possessing nuclear weapons and not having them on their territory should have appropriate reliable international legal guarantees against the use or threat of use of these weapons. Some delegations belonging to the Group of Eastern European and other states, including the delegation of a State possessing nuclear weapons, noted that to achieve a substantive progress in this respect a political will and constructive approach should be demonstrated by all. Expressing readiness to participate actively in the search for solutions based on a common formula and agreeing with the approach of the delegations that give their preference to a multilateral international document of a binding character as compared to unilateral statements, these delegations expressed the view that it was necessary to consider similar or intermediate measures that would contribute to the creation of sound, clear-cut and genuine guarantees for the non-nuclear-weapon States based on a balance of interests of all States concerned. Such intermediate measures, according to them, could include the prohibition of the use of nuclear weapons against all States - including those that had no such weapons; the creation of nuclear-weapon-free zones as an effective means of ensuring the necessary prerequisites for nuclear-weapon States to assume obligations not to use nuclear weapons against States belonging to such zones. They referred also to the unilateral statements of two nuclear-weapon States that they would not be the first to use nuclear weapons.

17. One delegation from the same Group suggested that an interim solution could be based on the "lowest common denominator" of the five existing non-use declarations which meant that if non-nuclear-weapon states party to the NPT, not parties to an alliance and not stationing foreign nuclear weapons, could confirm in a NSA legal instrument its non-attack obligation assumed under article 2(4) of the UN Charter, they might well enjoy legally-binding assurances. Such an interim arrangement might strengthen the security of the majority of non-nuclear-weapon States and could become an important step ahead. The delegation thought that the Committee could not follow a realistic and pragmatic "single common formula" approach and at the same time insist on covering all non-nuclear weapon States by the respective security assurances.

18. The Western Group stated that it continued to attach importance to the question of Negative Security Assurances and recognized their role as a means of enhancing international security. It was the view of all members of this

Group that unilateral commitments made by the three nuclear States of the Group, although not enshrined in a formal treaty, were firm commitments based on realistic considerations. Although they were worded differently, their spirit and the aim they pursued were identical. In practice, most non-nuclear weapon States should find themselves covered by these assurances as indeed they might well be covered by all five unilateral statements. The Western Group was convinced that the most recent developments, especially in the East-West context and in Europe might offer some prospects for furthering the discussions. It stressed that one of the central elements of these developments was the joint reaffirmation of mutual commitment of non-agression enshrined in the UN Charter. The Group believed that these developments not only showed how rapid change could be and how advanced was the process of cooperation in Europe, but it was the conviction of the Group that such an approach could be useful to other regions. It therefore invited all States to examine the possibility to adopt initiatives taking into account particular characteristics of each region which should lead to stability and security for all participating States. In particular, the establishment of Nuclear Weapon Free Zones in appropriate areas could contribute to the settlement of regional tensions and disputes. This Group continued to be ready to examine carefully various ways of tackling the question of security assurances in a constructive way and in other appropriate fora. The Group recalled that legally-binding commitments could also be undertaken through the NPT, through regional arrangements such as the Treaty of Tlatelolco and the Treaty of Rarotonga or by an arrangement with the IAEA. The Group considered as particularly useful those proposals before the Committee, which recognized the necessary balance between binding and effective non-proliferation undertakings on the one hand and binding security assurances on the other hand.

19. One delegation, member of the Western Group, recommending a realistic approach to this agenda item, indicated that because the possible use of nuclear weapons, as well as their deterrent role, was still a component of the military doctrines of some nuclear-weapon States the eventual total elimination of nuclear weapons could only remain a longer term objective. Moreover, the wish to obtain agreement from the five nuclear-weapon states on a common formula could only be achieved if all five of them could agree among themselves on what should be the components of that common formula. It also stated that even though this item had been on the CD agenda since 1979, the time was still not ripe to resolve it in the way that many states favouring a common formula would clearly prefer. The best way to advance the work should be through further discussion and the patient analysis of ideas that would appear to have some chance of being accepted by the nuclear-weapon states.

Instead of repeated merely rhetorical calls for a common formula only by exploring with them what they would be prepared to accept would any progress be likely.

20. Another delegation, a member of the Western Group, said that although NSAs are not in themselves concrete arms control or disarmament measures, they could enhance international security. It identified several key factors relevant to consideration of the issue of NSAs and specifically the importance of several existing international, particularly regional, legal instruments as means for giving more legal weight to the political commitments inherent in the various unilateral nuclear NSA declarations. In the context of this last factor, this same delegation urged all nuclear weapon states which had not done so to sign additional protocol II of the South Pacific Nuclear Free Zone Treaty.

21. The delegation of one Western nuclear-weapon State stressed the importance of a balance between, on the one hand, a legally-binding commitment by the nuclear-weapon States not to threaten to use or to use nuclear weapons against non-nuclear-weapon States, and on the other hand, a legally-binding commitment by such States not to develop, produce or acquire nuclear weapons. It moreover stated that any legally-binding assurance should be applicable to all non-nuclear-weapon States irrespective of their membership in a military alliance or of the stationing of nuclear weapons on their territories, but not to any non-nuclear weapon State which would associate itself in any way to a nuclear attack against a nuclear weapon State.

22. One nuclear-weapon State was of the view that the most effective security guarantee for non-nuclear-weapon States against the use or threat of use of nuclear weapons was the complete prohibition and total elimination of nuclear weapons. Pending the achievement of this goal, all nuclear-weapon States should undertake not to use or threaten to use nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones under any circumstances. It reiterated its commitment that at no time and under no circumstances would it be the first to use nuclear weapons, and that it would not use or threaten to use nuclear weapons against non-nuclear-weapon States. It expressed its support for the conclusion of an international convention which could genuinely prevent the use or threat of use of nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones. It also stated that it would welcome any constructive initiative agreeable to non-nuclear-weapon States.

IV. Conclusions and recommendations

23. The Ad Hoc Committee reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat

of use of nuclear weapons pending effective measures of nuclear disarmament. Work on the substance of the effective arrangements and discussion on various aspects and elements of a solution, together with the series of informal consultations by the Chairman revealed that specific difficulties relating to differing perceptions of security interests of nuclear-weapon States and non-nuclear-weapon States continued to persist and that the complex nature of the issues involved continued to prevent agreement on a 'common formula'. The formal debates and informal consultations demonstrated the readiness of delegations to continue the search for a common approach on the substance of negative security assurances and, in particular, on such a 'common formula'.

24. Against this background the Ad Hoc Committee recommends to the Conference on Disarmament that ways and means should continue to be pursued in the light of the on-going and future developments to overcome the difficulties encountered in its work in carrying out negotiations on the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Accordingly, it was generally agreed that the Ad Hoc Committee should be re-established at the beginning of the 1992 session.